

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

UNITED STATES OF AMERICA PLAINTIFF
v. Crim. No. 2:07CR20028

ERNEST GAIL LAIL DEFENDANT

O R D E R

On March 25, 2008, Defendant was sentenced for bank robbery by force or violence to a term of 105 months imprisonment (running concurrently with 105 months imprisonment in 2:07cr20061), 3 years of supervised release, a \$200.00 special assessment, and ordered to pay \$21,378.01 in restitution. Defendant sent a letter to the Court which directed the Clerk to docket as a *pro se* motion (doc. 34). In his motion, Defendant contends the BOP is not properly crediting him for time served and seeks the Court's assistance to bring indictments against certain Bureau of Prisons staff and to transfer him to a prison closer to his family. Also before the Court is the Government's response (doc. 35).

The determination of whether a defendant should be given credit for time served under 18 U.S.C. § 3585(b) is properly left to the Bureau of Prisons. See *U.S. v. Pardue*, 363 F.3d 695 (8th Cir. 2004). Defendant must utilize the administrative procedures within the Bureau of Prisons to review the whether the Bureau failed to properly credit him with time served. *Id.* Defendant must also use these administrative procedures to request any transfer. Once those procedures are exhausted, he may seek judicial review by filing a habeas petition under 28 U.S.C. § 2241

in the District where he is incarcerated. *Id.* Further, the Court has no power to order a criminal investigation. Accordingly, Defendant's Motion is (doc. 34) DENIED.

IT IS SO ORDERED THIS 30th DAY OF JANUARY 2012.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge